

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

STEVEN D. AUSTIN,

Plaintiff,

v.

CAMPBELL COUNTY DETENTION
FACILITY,

Defendant.

No.: 2:16-CV-358-HSM-MCLC

MEMORANDUM AND ORDER

On January 3, 2017, a Deficiency Order was entered in this pro se prisoner's civil rights case, filed under 42 U.S.C. § 1983 [Doc. 3]. In the Deficiency Order, Plaintiff was notified that, unless within thirty (30) days of that date, he paid the full filing fee or signed his application to proceed *in forma pauperis* and submitted a certified copy of his inmate trust account statement for the last six-month period, the Court would dismiss his lawsuit for failure to prosecute and to comply with the orders of the court and also would assess the filing fee [*Id.*]. That time frame has passed, and Plaintiff has not responded to the Deficiency Order or otherwise communicated with the Court.

Accordingly, the Court presumes that Plaintiff is not a pauper and hereby **ASSESSES** him the full filing fee of four hundred dollars (\$400.00) as authorized under 28 U.S.C. § 1914(a). 28 U.S.C. § 1915(b)(2); *McGore v. Wrigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997) (instructing that "[i]f the prisoner does not comply with the district court's directions, the district court must presume that the prisoner is not a pauper and

assess the inmate the full amount of fees”), *overruled on other grounds by Jones v. Bock*, 549 U.S. 199 (2007).

Because of Plaintiff’s failure to comply with the orders of the Court and to prosecute his case, this lawsuit will be **DISMISSED WITHOUT PREJUDICE**. Fed. R. Civ. P. 41(b).

Finally, the Court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24.

AN APPROPRIATE JUDGMENT ORDER WILL ENTER.

/s/ Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE